

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

JOHN HANCOCK LIFE INSURANCE
COMPANY,

Plaintiff,

v.

VESTMONT LIMITED PARTNERSHIP,
VESTMONT LIMITED PARTNERSHIP II,
VESTMONT LIMITED PARTNERSHIP III,
and VESTERRA CORPORATION d/b/a
MONTGOMERY SQUARE PARTNERSHIP,

Defendants.

CIVIL ACTION NO. 05-11614-WGY

**PLAINTIFF JOHN HANCOCK LIFE INSURANCE COMPANY'S
RENEWED MOTION FOR SUMMARY JUDGMENT
ON DEFENDANTS' COUNTERCLAIM UNDER M.G.L. c. 93A**

Plaintiff John Hancock Life Insurance Company ("John Hancock" or "Hancock") hereby submits this Renewed Motion for Summary Judgment on the Defendants' Counterclaim under M.G.L. c. 93A, § 11 (the "Motion"). Discovery in this action is now closed, and there is no dispute but that defendants Vestmont Limited Partnership, Vestmont Limited Partnership II, Vestmont Limited Partnership III, and Vesterra Corporation d/b/a Montgomery Square Partnership (collectively, "Montgomery Partners" or the "Defendants") cannot offer admissible evidence sufficient to convince a rational trier of fact that John Hancock "made material misrepresentations in the Loan Application about the requirements for disbursement of the Loan" as alleged by the Defendants. To the contrary, the undisputed documentary and testimonial

evidence -- including the sworn testimony of the Defendants' own expert witness, Ms. Linda C. Spevacek -- establishes that John Hancock *did not* change or misrepresent the requirements for disbursement of the Loan at issue, and thus can have no liability to the Defendants under Chapter 93A. Accordingly, John Hancock is entitled to judgment on that counterclaim as a matter of law for the reasons set forth below.

In support of this Renewed Motion for Summary Judgment, John Hancock relies upon the previously-filed Affidavits of Timothy J. Malik, Patricia Coyne, and Ivor Thomas, Filed Pursuant to Court Order of April 12, 2006, dated April 26, 2006.

JOHN HANCOCK LIFE INSURANCE
COMPANY

By its attorneys,

/s/ Brian A. Davis
Brian A. Davis (BBO No. 546462)
Paul D. Popeo (BBO No. 567727)
Elizabeth A. Castellani (BBO No. 663818)
CHOATE, HALL & STEWART LLP
Two International Place
Boston, MA 02110
Tele: 617-248-5000
Fax: 617-248-4000

Date: April 28, 2006

4076370.1

LOCAL RULE 7.1 CERTIFICATION

Pursuant to Local Rule 7.1(A)(2), the undersigned counsel for the Plaintiff hereby certifies that he has conferred in good faith with counsel for the Defendants concerning the subject matter of this Motion. The parties were not able to resolve or narrow the issues raised therein.

/s/ Brian A. Davis
Brian A. Davis

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on April 28, 2006.

/s/ Brian A. Davis
Brian A. Davis